

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0547.01 Shelby Ross x4510

HOUSE BILL 19-1096

HOUSE SPONSORSHIP

Melton,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "COLORADO RIGHT TO REST**
102 **ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the "Colorado Right to Rest Act", which establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill prohibits discrimination based on housing status.

The bill creates an exemption of the basic right to rest for people experiencing homelessness for any county, city, municipality, or subdivision that can demonstrate that, for 3 consecutive months, the waiting lists for all local public housing authorities contain fewer than 50 people.

The bill allows the general assembly to appropriate money from the marijuana tax cash fund to the department of local affairs for the purpose of enabling governmental entities that do not meet the exemption requirement to reduce the housing waiting lists to fewer than 50 people for at least 6 months per year.

The bill allows any person whose rights have been violated to seek enforcement in a civil action.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 4.5 to title
3 24 as follows:

4 **ARTICLE 4.5**

5 **Colorado Right to Rest Act**

6 **24-4.5-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 4.5 IS
7 THE "COLORADO RIGHT TO REST ACT".

8 **24-4.5-102. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY FINDS AND DECLARES THAT:

10 (a) MANY PEOPLE EXPERIENCE HOMELESSNESS BECAUSE OF
11 ECONOMIC HARDSHIP, A SEVERE SHORTAGE OF SAFE AND AFFORDABLE
12 HOUSING, THE INABILITY TO SECURE GAINFUL EMPLOYMENT, AND A
13 DISINTEGRATING AND SHRINKING SOCIAL SAFETY NET;

14 (b) RESPONDING TO THE GROWING CRISIS OF HOMELESSNESS WITH
15 CRIMINAL SANCTIONS TO PUSH PEOPLE WHO ARE HOMELESS OUT OF PUBLIC
16 SPACES AND INTO COURTS AND JAILS IS INHUMANE AND VIOLATES BASIC
17 CONSTITUTIONAL, CIVIL, AND HUMAN RIGHTS OF PEOPLE WHO ARE
18 HOMELESS. IT IS ALSO COSTLY AND INEFFECTIVE AT REDUCING

1 HOMELESSNESS.

2 (c) CITIES THROUGHOUT COLORADO ARE ENACTING AND
3 ENFORCING ORDINANCES THAT CRIMINALLY OR CIVILLY PUNISH BASIC
4 ACTS OF SURVIVAL. SUCH ORDINANCES RESULT IN PEOPLE BEING
5 CRIMINALLY OR CIVILLY PUNISHED FOR DOING WHAT ANY PERSON MUST
6 DO TO SURVIVE.

7 (d) LOCAL ORDINANCES OF THIS KIND DO NOT REDUCE
8 HOMELESSNESS OR CRIME. INSTEAD, THEY INCREASE INCARCERATION
9 RATES AND THE FINANCIAL INDEBTEDNESS OF PEOPLE WHO ARE HOMELESS.
10 MOREOVER, THE COLLATERAL CONSEQUENCES OF THESE ORDINANCES
11 PROLONG HOMELESSNESS BY MAKING IT MORE DIFFICULT FOR PEOPLE TO
12 SECURE NEEDED HOUSING, EMPLOYMENT, BENEFITS, AND MEDICAL CARE.

13 (e) WHILE THESE LOCAL ORDINANCES APPLY TO ALL RESIDENTS OF
14 A CITY OR MUNICIPALITY, THEY DISPROPORTIONATELY IMPACT PEOPLE
15 WHO ARE HOMELESS AND WHO HAVE NO PRIVATE OR LAWFUL PLACE TO
16 REST, SHELTER THEMSELVES, STORE THEIR BELONGINGS, OR SEEK
17 NOURISHMENT. THESE LOCAL ORDINANCES ARE OFTEN ENFORCED WITH
18 DISCRIMINATORY INTENT AGAINST PEOPLE WHO ARE HOMELESS BASED
19 UPON THEIR APPEARANCE OR OTHER INDICATORS OF THEIR HOUSING
20 STATUS, OR THE LOCAL ORDINANCES HAVE A DISCRIMINATORY IMPACT ON
21 PEOPLE BASED ON THEIR HOUSING STATUS.

22 (f) IN PRACTICE, THESE LOCAL ORDINANCES THREATEN THE
23 HEALTH AND WELL-BEING OF PEOPLE WHO ARE HOMELESS BY DEPRIVING
24 PEOPLE WHO ARE HOMELESS OR PERCEIVED AS HOMELESS OF A SAFE AND
25 LEGAL PLACE TO REST, SHELTER THEMSELVES, STORE BELONGINGS, AND
26 SEEK NOURISHMENT;

27 (g) LACKING THE RESOURCES NECESSARY TO OBTAIN ADEQUATE

1 LEGAL REPRESENTATION, PEOPLE WHO ARE HOMELESS ARE OFTEN DENIED
2 ACCESS TO JUSTICE TO REDRESS CONSTITUTIONAL, CIVIL, OR HUMAN
3 RIGHTS VIOLATIONS;

4 (h) THE FEDERAL GOVERNMENT, THROUGH ITS INTERAGENCY
5 COUNCIL ON HOMELESSNESS, AND THE UNITED NATIONS HAVE
6 RECOGNIZED THAT CRIMINALIZING HOMELESSNESS VIOLATES THE
7 CONSTITUTIONAL AND HUMAN RIGHTS OF PEOPLE WHO ARE HOMELESS,
8 INCLUDING THE RIGHT TO BE FREE FROM CRUEL AND UNUSUAL
9 PUNISHMENT. THE FEDERAL GOVERNMENT AND THE UNITED NATIONS
10 HAVE CALLED UPON GOVERNMENTS TO CEASE ENACTMENT AND
11 ENFORCEMENT OF SUCH LAWS.

12 (i) GUARANTEEING THE RIGHT TO REST IN PUBLIC SPACES ALLOWS
13 MUNICIPAL GOVERNMENTS TO REDIRECT RESOURCES FROM LOCAL
14 ENFORCEMENT ACTIVITIES TO ACTIVITIES THAT ADDRESS THE ROOT
15 CAUSES OF HOMELESSNESS, DISPLACEMENT OF PEOPLE WHO ARE
16 HOMELESS, AND POVERTY.

17 (2) THE GENERAL ASSEMBLY DECLARES THAT THE INTENT OF THIS
18 ACT IS TO GUARANTEE THE RIGHT TO REST, AS DEFINED IN SECTION
19 24-4.5-103 (8), AND TO PROHIBIT DISCRIMINATION BASED ON HOUSING
20 STATUS.

21 **24-4.5-103. Definitions.** AS USED IN THIS ARTICLE 4.5, UNLESS
22 THE CONTEXT OTHERWISE REQUIRES:

23 (1) "DISCRIMINATION BASED ON HOUSING STATUS" REFERS TO ANY
24 LAW, POLICY, OR PRACTICE REGULATING PUBLIC SPACE THAT RESULTS IN
25 DISPARATE TREATMENT OR HAS A DISPARATE IMPACT ON PEOPLE WHO ARE
26 HOMELESS OR PERCEIVED AS HOMELESS, AS DEFINED IN THIS SECTION.

27 (2) "DISPLACE" MEANS REMOVING A PERSON WHO IS HOMELESS

1 FROM A PUBLIC SPACE THAT THE PERSON CONSIDERS HIS OR HER
2 DWELLING.

3 (3) "HARASSMENT" HAS THE SAME MEANING AS SET FORTH IN
4 SECTION 18-9-111. "HARASSMENT" ALSO MEANS A KNOWING OR WILLFUL
5 COURSE OF CONDUCT BY LAW ENFORCEMENT OR PUBLIC OR PRIVATE
6 SECURITY PERSONNEL OR AGENTS THAT IS DIRECTED AT A SPECIFIC PERSON
7 AND THAT A REASONABLE PERSON WOULD CONSIDER PESTERING,
8 TROUBLING, DISTURBING, OR THREATENING.

9 (4) "HOMELESS" MEANS ANY OF THE FOLLOWING:

10 (a) LACKING A FIXED, REGULAR, AND ADEQUATE RESIDENCE;

11 (b) SHARING THE HOUSING OF OTHER PEOPLE DUE TO LOSS OF
12 HOUSING, ECONOMIC HARDSHIP, OR SIMILAR REASONS;

13 (c) LIVING IN MOTELS, HOTELS, OR CAMPING GROUPS DUE TO A
14 LACK OF ADEQUATE ALTERNATIVE ACCOMMODATIONS;

15 (d) LIVING IN AN EMERGENCY OR TRANSITIONAL SHELTER;

16 (e) LIVING IN A MOTOR VEHICLE OF ANY KIND, AS DEFINED IN
17 SUBSECTION (5) OF THIS SECTION;

18 (f) LIVING IN AN ENCLOSURE OR STRUCTURE THAT IS NOT MEANT
19 FOR HUMAN HABITATION BUT THAT A PERSON CONSIDERS HIS OR HER
20 DWELLING; OR

21 (g) AWAITING FOSTER CARE PLACEMENT.

22 (5) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN
23 SECTION 42-1-102 (58) AND INCLUDES:

24 (a) CAMPER TRAILERS, AS DEFINED IN SECTION 42-1-102 (14);

25 (b) COMMERCIAL VEHICLES, AS DEFINED IN SECTION 42-1-102
26 (17.5); AND

27 (c) MOTOR HOMES, AS DEFINED IN SECTION 42-1-102 (57).

1 (6) "NONOBSTRUCTIVE MANNER" MEANS IN A MANNER THAT DOES
2 NOT RENDER PASSAGEWAYS IMPASSABLE OR HAZARDOUS.

3 (7) "PUBLIC SPACE" MEANS ANY OUTDOOR PROPERTY THAT IS
4 OWNED OR LEASED BY A STATE OR LOCAL GOVERNMENTAL ENTITY OR ANY
5 PROPERTY UPON WHICH THERE IS AN EASEMENT FOR PUBLIC USE.

6 (8) "REST" MEANS THE STATE OF NOT MOVING AND HOLDING
7 CERTAIN POSTURES IN A NONOBSTRUCTIVE MANNER AND INCLUDES BUT IS
8 NOT LIMITED TO SITTING, STANDING, LEANING, KNEELING, SQUATTING,
9 SLEEPING, OR LYING DOWN. IT ALSO INCLUDES LIFE-SUSTAINING
10 ACTIVITIES CONDUCTED IN CONJUNCTION WITH REST, INCLUDING EATING
11 AND SHELTERING ONESELF IN A NONOBSTRUCTIVE MANNER.

12 **24-4.5-104. Protected rights - exemptions - appropriation.**

13 (1) EVERY PERSON HAS THE FOLLOWING RIGHTS IN PUBLIC SPACES
14 WITHOUT BEING SUBJECT TO CRIMINAL OR CIVIL PENALTIES OR
15 HARASSMENT:

16 (a) THE RIGHT TO REST IN A NONOBSTRUCTIVE MANNER;

17 (b) THE RIGHT TO SHELTER ONESELF FROM THE ELEMENTS IN A
18 NONOBSTRUCTIVE MANNER;

19 (c) THE RIGHT TO EAT, SHARE, ACCEPT, OR GIVE FOOD IN ANY
20 PUBLIC SPACE WHERE FOOD IS NOT PROHIBITED;

21 (d) THE RIGHT TO OCCUPY A MOTOR VEHICLE, PROVIDED THAT THE
22 MOTOR VEHICLE IS LEGALLY PARKED ON PUBLIC PROPERTY OR PARKED ON
23 PRIVATE PROPERTY WITH THE PERMISSION OF THE PROPERTY OWNER; AND

24 (e) THE RIGHT TO A REASONABLE EXPECTATION OF PRIVACY IN HIS
25 OR HER PERSONAL PROPERTY.

26 (2) DISCRIMINATION BASED ON HOUSING STATUS IS PROHIBITED.

27 (3) (a) THE STATE AND ANY COUNTY, CITY, MUNICIPALITY, OR

1 OTHER SUBDIVISION IS EXEMPT FROM THE PROVISIONS OF SUBSECTION
2 (1)(a) OF THIS SECTION IF THE STATE, COUNTY, CITY, MUNICIPALITY, OR
3 OTHER SUBDIVISION CAN DEMONSTRATE THAT, FOR THREE CONSECUTIVE
4 MONTHS, THE WAITING LISTS FOR ALL LOCAL PUBLIC HOUSING
5 AUTHORITIES OR COMPARABLE AGENCIES CONTAIN FEWER THAN FIFTY
6 PEOPLE. FOR PURPOSES OF THIS SUBSECTION (3)(a), THE POSSESSION OF A
7 HOUSING VOUCHER IS NOT COUNTED AS HAVING HOUSING UNTIL A LEASE
8 HAS BEEN SIGNED AND APPROVED BY INSPECTORS FROM THE HOUSING
9 AUTHORITY OR COMPARABLE AGENCY DOCUMENTING THAT THE DOMICILE
10 MEETS ALL HEALTH AND SAFETY CODES.

11 (b) THE GENERAL ASSEMBLY MAY APPROPRIATE UP TO TEN
12 MILLION DOLLARS OVER THREE YEARS, BEGINNING ON JULY 1, 2019, TO
13 THE DEPARTMENT OF LOCAL AFFAIRS FROM THE MARIJUANA TAX CASH
14 FUND CREATED IN SECTION 39-28.8-501 FOR THE PURPOSE OF ENABLING
15 GOVERNMENTAL ENTITIES THAT DO NOT MEET THE EXEMPTION
16 REQUIREMENT SET FORTH IN SUBSECTION (3)(a) OF THIS SECTION TO
17 REDUCE THE HOUSING WAITING LISTS IN RESPECTIVE JURISDICTIONS TO
18 FEWER THAN FIFTY PEOPLE FOR AT LEAST SIX MONTHS PER YEAR.

19 **24-4.5-105. Enforcement.** A PERSON WHOSE RIGHTS HAVE BEEN
20 VIOLATED PURSUANT TO THIS ARTICLE 4.5 MAY SEEK ENFORCEMENT OF
21 THOSE RIGHTS IN A CIVIL ACTION. THE COURT MAY AWARD APPROPRIATE
22 INJUNCTIVE AND DECLARATORY RELIEF, RESTITUTION FOR LOSS OF
23 PROPERTY, AND ACTUAL AND COMPENSATORY DAMAGES OF UP TO ONE
24 THOUSAND DOLLARS PER VIOLATION. THE COURT MAY AWARD
25 REASONABLE ATTORNEY FEES AND COSTS TO THE PREVAILING PARTY.

26 **24-4.5-106. Severability.** THIS ARTICLE 4.5 MUST BE LIBERALLY
27 CONSTRUED TO ACHIEVE ITS PURPOSES AND PRESERVE ITS VALIDITY. IF

1 ANY PROVISION OR CLAUSE OF THIS ARTICLE 4.5 OR APPLICATION THEREOF
2 TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, SUCH INVALIDITY
3 DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE
4 4.5 THAT CAN BE GIVEN FULL EFFECT WITHOUT THE INVALID PROVISION OR
5 APPLICATION. TO THIS END, THE PROVISIONS OF THIS ARTICLE 4.5 ARE
6 DECLARED SEVERABLE AND ARE INTENDED TO HAVE INDEPENDENT
7 VALIDITY.

8 **SECTION 2. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.